

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

DALE H. WEBER,

Defendant.

No. 4:14-CR-6049-SMJ

**ORDER GRANTING
DEFENDANT'S ORAL MOTION
TO CONTINUE**

**FOURTH AMENDED¹ CASE
MANAGEMENT ORDER**

A pretrial conference occurred in the above-captioned matter on November 23, 2015. Defendant Dale H. Weber was present, represented by Christopher Andrew Swaby. Assistant U.S. Attorney Alison L. Gregoire appeared on behalf of the U.S. Attorney's Office (USAO). During the hearing, defense counsel orally requested a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Defendant supported counsel's request for a trial continuance for the articulated reasons. ECF No. 86. The U.S. Attorney's Office (USAO) did not oppose the request. ECF No. 85. The Court granted

¹ This Order amends and supersedes in part the Court's November 25, 2014 Case Management Order, ECF No. 35.

1 Defendant's motion to continue at the hearing; this Order memorializes and
2 supplements the Court's oral ruling.

3 The Indictment was filed on November 12, 2014. ECF No. 27. Defense
4 counsel appeared for Defendant on November 19, 2014. ECF No. 33. This is
5 Defendant's third request for a continuance.

6 To ensure defense counsel is afforded adequate time to review discovery,
7 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court
8 grants the motion, extends the pretrial motion deadline, and resets the currently-
9 scheduled pretrial conference and trial dates. The Court finds that Defendant's
10 continuance request is knowing, intelligent, and voluntary, and that the ends of
11 justice served by granting a continuance outweigh the best interest of the public
12 and Defendant in a speedy trial. The delay resulting from Defendant's motion is
13 therefore excluded under the Speedy Trial Act.

14 Counsel are advised that all second or successive continuance requests will
15 be closely scrutinized for the necessity of more time to effectively prepare, taking
16 into account the exercise of due diligence.

17 Having considered the parties' proposed case schedule and deadlines, the
18 Court now enters the following Amended Case Management Order, which sets
19 forth the deadlines, hearings, and requirements the parties will observe in this
20 matter. To the extent this Order conflicts with any previously-entered Orders in

1 this matter, this Order shall govern. All counsel are expected to carefully read and
2 abide by this Order and such provisions of the current CMO which have not been
3 superseded hereby. The Court will grant relief from the requirements in this
4 Order only upon motion and good cause shown.

5 Accordingly, **IT IS HEREBY ORDERED:**

6 **1.** The Court finds, given defense counsel's need for time to review
7 discovery, prepare any pretrial motions, conduct investigation, and
8 prepare for trial, that failing to grant a continuance would result in a
9 miscarriage of justice and would deny defense counsel the reasonable
10 time necessary for effective preparation, taking into account the
11 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i),(iv). The
12 Court, therefore, finds the ends of justice served by granting a
13 continuance in this matter outweigh the best interest of the public and
14 Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

15 **2. Original CMO.** Counsel must review the provisions of the original
16 November 25, 2014 CMO, ECF No. 35, and abide by those
17 procedures which remain in full force and effect and are incorporated
18 herein except for the new compliance deadlines in the following
19 Summary of Amended Deadlines.

20 //

1 **3. Pretrial Conference**

2 A. The pretrial conference is **RESET** to **February 11, 2016**, at
3 **10:00 AM** in **RICHLAND**. At this hearing, the Court will
4 hear **ALL** pretrial motions that are noted for oral argument.

5 B. All Pretrial Conferences are scheduled to last no more than
6 **thirty (30) minutes**, with each side allotted **fifteen (15)**
7 **minutes** to present their own motions and resist motions by
8 opposing counsel. If any party anticipates requiring longer
9 than fifteen minutes, that party must notify the Courtroom
10 Deputy at least seven (7) days prior to the hearing. **Any party**
11 **who fails to provide this notice will be limited to fifteen (15)**
12 **minutes.**

13 **4. Trial.** The Court **SETS** this matter for jury trial on **February 29,**
14 **2016**, at **9:00** in **RICHLAND**. Counsel and Defendant shall be
15 prepared to meet with the Court at least thirty (30) minutes prior to
16 the commencement of the trial.

17 **5.** Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court
18 **DECLARES EXCLUDABLE** from Speedy Trial Act calculations
19 the period from **November 23, 2015**, the date defense counsel moved
20

to continue, through **February 29, 2016**, the new trial date, as the period of delay granted for adequate preparation by counsel.

6. Summary of Deadlines

All pretrial motions filed	January 21, 2016
PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	February 11, 2016 10:00 AM - RICHLAND
Grand jury transcripts produced to Defendant Case Agent: Other witnesses:	February 19, 2016 February 19, 2016
Exhibit lists filed and emailed to the Court	February 15, 2016
Witness lists filed and emailed to the Court	February 15, 2016
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	February 19, 2016
Exhibit binders delivered to all parties and to the Court	February 15, 2016
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	February 19, 2016
Trial notices filed with the Court	February 19, 2016
Technology readiness meeting (in-person)	February 22, 2016
JURY TRIAL	February 29, 2016 9:00 AM - RICHLAND

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

DATED this 4th day of December 2015.



SALVADOR MENDOZA, R.
United States District Judge